

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

| | | |
|------------------------------------|---|-----------------------|
| Kenneth S. Bolden, |) | |
| |) | |
| Plaintiff, |) | No.: 6:07-cv-2985-GRA |
| v. |) | |
| |) | ORDER |
| Brent Rushing, James Matthews |) | (Written Opinion) |
| Culbertson, & City of Simpsonville |) | |
| Police Department, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before this Court for a ruling on Plaintiff's Motion to Supplement District Court Record, for which a hearing was held on November 23, 2009.

Federal Rule of Appellate Procedure 10(e)(2) states that:

(1) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

. . .

(B) by the district court before or after the record has been forwarded.

Fed. R. App. P. 10(e)(2). In seeking modification of the record, Plaintiff must demonstrate that the evidence to be supplemented was before the District Court in the course of its proceedings leading to the judgment under review and was mistakenly omitted from the record. *See Robinson v. Sanctuary Record Groups, Ltd.*, 589 F.Supp.2d 273 (S.D.N.Y. 2008).

This Court finds that Plaintiff has met his burden. The record indicates that this Court, in previous orders regarding this case, referenced information from the discovery depositions and plea hearing. Additionally, it appears that both parties used the documents in their arguments before this Court. Finally, there is no indication that the documents were omitted for any reason other than mistake or accident.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Supplement District Court Record is granted.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "G. Ross Anderson, Jr.", written over a horizontal line.

G. Ross Anderson, Jr.
Senior United States District Judge

November 24, 2009
Anderson, South Carolina